SUPREME COURT OF THE UNITED STATES.

No. 90.

THE UNITED STATES, PLAINTIFF,

VERSUS

ABEL TURNER.

CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT U. S. FOR THE DISTRICT OF N. CAROLINA.

UNITED STATES OF AMERICA, *North Carolina District,* } *Circuit Court, May term,* 1832.

Be it remembered that, at a circuit court of the United States of America, begun and held for the district of North Carolina, at the court-house in the city of Raleigh, on the 12th day of May, A. D. 1832, and in the fifty-sixth year of the independence of the United States: Present, the Honorable John Marshall, Esquire, Chief Justice of the United States, and the Honorable Henry Potter, Esquire, district judge for the district of North Carolina,

Beverly Daniel, Esquire, marshal for the district of North Carolina, returned into court his writ of venire, from which the following persons were drawn, impannelled, and sworn as grand jurors for this term, viz.

James H. Smith,	Isham Blake, jr.,	John M. Strong,
Woodson Clemons,	James Coman,	William Thriff,
Robert T. Goodwin,	Thomas D. Bennehan,	Alexander Forrest,
Joseph Bridges,	David Lewis,	Willie Shaw,
Allen Rogers,	James Leathers,	John Dunn,
Thomas Howarton;	Morris Smith, and	Charles L. Hinton.

Whereupon James H. Smith, Esq. was appointed foreman thereof, who brought into court a bill of indictment, as follows:

UNITED STATES OF AMERICA, *District of North Carolina,* } *Fifth Circuit.*

At a circuit court begun and held for said district on the 12th day of May, 1832:

The jurors for the United States, from the body of the said district, upon their oath present, that Abel Turner, late of the said district, laborer, after the tenth day of April, which was in the year of our Lord one thousand eight hundred and sixteen, to wit, on the fifth day of December, in the year

of our Lord one thousand eight hundred and thirty-one, with force and arms, in the county of Cumberland, in the district aforesaid, feloneously and falsely did make, forge, and counterfeit, and caused and procured to be falsely made, and forged, and counterfeited, and did willingly aid and assist in falsely making, forging and counterfeiting, a certain paper, writing in imitation of, and purporting to be, a bill or note issued by the orders of the President, Directors and Company of the Bank of the United States, the tenor of which said false, forged and counterfeited paper writing is as follows, to wit: The President, Directors and Company of the Bank of the United States promise to pay twenty dollars, on demand, at their office of discount and deposite, in Fayetteville, to the order of D. Anderson, cashier thereof. Philadelphia, the 4th of July, 1827, John W Sandford, cashier, John Huske, president, with intent to defraud the President, Directors and Company of the Bank of the United States, against the form of the act of Congress of the United States in such case made and provided, and against the peace and dignity of the United States.

2. And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Abel Turner afterwards, and after the said tenth day of April, in the year of our Lord one thousand eight hundred and sixteen, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and thirty-one, with force and arms, in the county of Cumberland, in the district aforesaid, feloniously did attempt to pass to one Solomon Elliot, as, and for, a true and good bill or note, a certain false, forged, and counterfeited paper writing, in imitation of, and purporting to be, a bill or note issued by the orders of the President, Directors and Company of the Bank of the United States; the tenor of which said false, forged, and counterfeited paper writing is as follows, to wit: The President, Directors and Company of the Bank of the United States promise to pay twenty dollars, on demand, at their office of discount and deposite, in Fayetteville, to the order of D. Anderson, cashier thereof, Philadelphia, the 4th of July, 1827, John W. Sandford, cashier, John Huske, President, with intent to defraud the President, Directors and Company of the Bank of the United States; he, the said Abel Turner, at the time of his so attempting to pass the said false, forged, and counterfeited paper writing, to wit, on the said fifth day of December, in the year last aforesaid, in the county of Cumberland, in the district aforesaid, well knowing the said paper writing to be false, forged, and counterfeited, against the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States.

3. And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said Abel Turner afterwards, and after the said tenth day of April, in the year of our Lord one thousand eight hundred and sixteen, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and thirty-one, with force and arms, in the county of Cumberland, in the district aforesaid, feloniously did pass, utter, and publish, to one Solomon Elliot, as, and for, a good and true bill or note, a certain false, forged, and counterfeited paper writing, in imitation of, and purporting to be, a bill or note, issued by the orders of the President, Directors and Company of the Bank of the United States; the tenor of which said false, forged and counterfeited paper writing is as follows, to wit: The President, Directors and Company of the Bank of the United States promise to pay twenty dollars, on demand, at their office of discount and deposite, in Fayetteville, to the order of D. Anderson, cashier, thereof. Philadelphia, the 4th of July,

1827, John W. Sandford, cashier, John Huske, president, with intent to defraud the President, Directors and Company of the Bank of the United States; he, the said Abel Turner, at the time of his so passing, uttering, and publishing the said false, forged, and counterfeited paper writing, to wit, on the fifth day of December, in the year last aforesaid, well knowing the said paper writing to be false, forged, and counterfeited, against the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States.

4. And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said Abel Turner afterwards, and after the said tenth day of April, in the year of our Lord one thousand eight hundred and sixteen, to wit, on the fifth day of December, in the year last aforesaid, with force and arms, in the county of Cumberland, in the district aforesaid, feloniously did attempt to pass, utter, and publish, to one Solomon Elliot, as, and for, a good and true bill or note, a certain false, forged, and counterfeited paper writing, in imitation of, and purporting to be, a bill or note, issued by the orders of the President, and Directors and Company of the Bank of the United States; the tenor of which said false, forged, and counterfeited paper writing is as follows, to wit: The President, Directors and Company of the Bank of the United States promise to pay twenty dollars, on demand, at their office of discount and deposite, in Fayetteville, to the order of D. Anderson, cashier thereof, Philadelphia, the 4th of July, 1827, John W. Sandford, cashier, John Huske, President, with intent to defraud the said Solomon Elliot; he, the said Abel Turner, at the time of his so attempting to pass, utter, and publish the said false, forged, and counterfeited paper writing, to wit, on the said fifth day of December, in the year last aforesaid, in the county of Cumberland, in the district aforesaid, well knowing the said paper writing to be false, forged, and counterfeited, against the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States.

5. And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said Abel Turner afterwards, and after the said tenth day of April, in the year of our Lord one thousand eight hundred and sixteen, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and thirty-one, with force and arms, in the county of Cumberland, in the district aforesaid, feloniously did pass, utter, and publish, to one Solomon Elliot, as, and for, a good and true bill or note, a certain false, forged and counterfeited paper writing, in imitation of, and purporting to be, a bill or note, issued by the President, Directors and Company of the Bank of the United States; the tenor of which said false, forged, and counterfeited paper writing is as follows, to wit: The President, Directors and Company of the Bank of the United States promise to pay twenty dollars, on demand, at their office of discount and deposite, in Fayetteville, to the order of D. Anderson, cashier thereof. Philadelphia, the 4th of July, 1827, John W. Sandford, cashier, John Huske, president, with intent to defraud the said Solomon Elliot; he, the said Abel Turner, at the time of so passing, utering, and publishing the said false, forged, and counterfeited paper writing, to wit, on the said fifth day of December, in the year last aforesaid, well knowing the said paper writing to be false, forged, and counterfeited, against the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States.

THO. P. DEVEREUX, *Dist. Attorney.*

And the said Abel Turner, being called to the bar, is charged in form, and pleads not guilty; and thereupon the following jury, viz. Alfred Jones, Ivey Harris, J. O. Watson, Theophilus Hunter, Alexander Elliot, Joseph Gales, John Rix, Kembrough Jones, James A. Russel, Thomas Crocker John Rice, and Samuel F. Hawley, was impannelled and sworn to try the said issue, &c.; and do say, that they find the defendant guilty of the matters charged in the fourth and fifth counts in the bill of indictment, and not guilty as to the residue.

Upon the trial of this cause it occurred as a question, whether the attempt to pass the counterfeit bill, in the indictment mentioned, knowing the same to be counterfeit, the said bill being signed with the name of John Huske, who had not, at any time, been President of the Bank of the United States, but at the time of the date of the said counterfeit bill was the president of the office of discount and deposite of the Bank of the United States, at Fayetteville, and countersigned with the name of John W. Sandford, who at no time was cashier of the Bank of the United States, but was, at the date aforesaid, cashier of the said office of discount and deposite, was an offence within the provisions of the act entitled an act to incorporate the subscribers to the Bank of the United States; upon which question, the judges being divided in opinion, it is ordered that the same be certified to the Supreme Court of the United States for the opinion of that court.

UNITED STATES OF AMERICA, *North Carolina District,* } *Circuit Court, fifth circuit.*

I, William H. Haywood, clerk of the circuit court of the United States of America, for the district aforesaid, do hereby certify the foregoing to be a copy of the proceedings on the indictment, the United States against Abel Turner. Given under my hand and seal of office, this 26th day of May, A. D. 1832.

[SEAL.]

WM. H. HAYWOOD, *Clerk.*

SUPREME COURT OF THE UNITED STATES.

No. 104.

THE UNITED STATES, PLAINTIFF,

VERSUS

SAMUEL BREWSTER.

CERTIFICATE OF DIVISION OF OPINION FROM CIRCUIT COURT U. S. EASTERN PENNSYLVANIA.

Title.

THE UNITED STATES OF AMERICA,
vs.
SAMUEL BREWSTER, otherwise called SAMUEL B. BREWSTER.

At the circuit court of the United States, holden at Philadelphia, in and for the district of Pennsylvania, in the third circuit, on Thursday the eleventh day of October, in the year of our Lord one thousand eight hundred and thirty-two, before the honorable Henry Baldwin, associate justice, and Joseph Hopkinson, district judge.

Indictment.

The grand inquest of the United States of America, inquiring in and for the eastern district of Pennsylvania, upon their oaths and affirmations respectively, do present that Samuel Brewster, otherwise called Samuel B. Brewster, late of the said district, yeoman, on the eighth day of May, in the year of our Lord one thousand eight hundred and thirty-two, at the said district, and within the jurisdiction of this court, with force and arms, unlawfully and feloniously did sell, utter, and deliver a false, forged, and counterfeited bill, in imitation of a bill issued by order of the president and directors of the Bank of the United States, which said false, forged, and counterfeited bill partly written and partly printed, is in the words and figures following, to wit:

(5) F 745 F 745 (5)
Cashier of the
Bank of the United States,
Pay to C. W. Earnest, or order, five dollars
Office of Discount and Deposite in Pittsburgh, the 10th day of Dec. 1829.
A. BRACKENRIDGE, *Prest.*
J. CORREY, *Cashr.*
Fairman, Draper, Underwood, & Co.

(Endorsed) Pay the bearer,
C. W. EARNEST.

With intent to defraud the president, directors, and company of the Bank of the United States, he, the said Samuel Brewster, otherwise called Samuel B. Brewster, at the time he so sold, uttered, and delivered the said false, forged, and counterfeited bill as aforesaid, then and there well knowing the same to be false, forged, and counterfeited, contrary to the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

And the grand inquest aforesaid, inquiring as aforesaid upon their oaths and affirmations aforesaid, do further present that the said Samuel Brewster, otherwise called Samuel B. Brewster, afterwards, to wit, on the day and year aforesaid, at the district aforesaid, and within the jurisdiction of this court, with force and arms, unlawfully and feloniously did sell, utter, and deliver, and did cause to be sold, uttered, and delivered, a false, forged, and counterfeited note, in imitation and purporting to be a note issued by order of the president and directors of the Bank of the United States, which said last mentioned false, forged, and counterfeited note partly written and partly printed, was in the words and figures following, to wit:

(5) F 745 F 745 (5)
Cashier of the
Bank of the United States
Pay to C. W. Earnest, or order, five dollars
Office of Discount and Deposite in Pittsburgh, the 10th day of Dec. 1829.
A. BRACKENRIDGE, *Prest.*
J. CORREY, *Cashr.*
Fairman, Draper, Underwood, & Co.

(Endorsed) Pay the bearer,
C. W. EARNEST.

With intent to defraud the president, directors, and company of the Bank of the United States, he, the said Samuel Brewster, otherwise called Samuel B. Brewster, at the time he so sold, uttered, and delivered the said false, forged, and counterfeited note as aforesaid, then and there well knowing the same to be false, forged, and counterfeited, contrary to the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States of America

To which indictment, the prisoner pleaded not guilty; and, upon the trial, the following question occurred, upon which the opinions of the said judges of the circuit court were opposed.

Plea and Question.

Whether the genuine instrument of which the said false, forged, and counterfeited instrument is in imitation, is a bill issued by order of the president and directors of the said bank, according to the true intent and meaning of the eighteenth section of the act of Congress, passed on the sixteenth day of April, in the year of our Lord one thousand eight hundred and sixteen, entitled "An act to incorporate the subscribers of the Bank of the United States."

And the said judges being so opposed in opinion upon the question aforesaid, the same was then and there, at the request of the district attorney for the United States, stated under the direction of the judges, and ordered by the court to be certified under the seal of the court, to the Supreme Court, at

769

their next session to be held thereafter, to be finally decided by the said Supreme Court; and the court being farther of opinion that farther proceedings could not be had in said cause without prejudice to the merits of the same cause, did order that the jury empannelled as aforesaid to try said cause, be discharged from giving any verdict therein.

All which is hereby certified, according to the form of the statute of the United States of America, in such case made and provided.

In witness whereof, I, Francis Hopkinson, clerk of the said circuit court, have hereunto set my hand and affixed the seal of the said [L. S.] court, this first day of February, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States the fifty-seventh.

FRAS. HOPKINSON, *Clerk Circuit Court.*